

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**ANYWHERECOMMERCE, INC. and
BBPOS LIMITED,**

Plaintiffs,

v.

**INGENICO INC., INGENICO CORP.,
and INGENICO GROUP SA,**

Defendants.

Civil Docket No: 1:19-cv-11457-IT

EXPEDITED REVIEW REQUESTED

**JOINT MOTION FOR LEAVE TO MODIFY THE SCHEDULE OF REMAINING CASE
MANAGEMENT DEADLINES ESTABLISHED BY THE CORRECTED AMENDED
SCHEDULING ORDER ENTERED ON JANUARY 21, 2022**

Plaintiffs and Defendants (collectively, the “Parties”), by and through their attorneys, jointly move to modify the outstanding case management deadlines listed in the Corrected Amended Scheduling Order entered by this Court on January 21, 2022 and referenced in the Electronic Notice of Hearing entered on the same date. *See* Corrected Am. Scheduling Order (Jan. 21, 2022), Doc. No. 174; Electronic Notice of Hr’g (Jan 21, 2022), Doc. No. 175. Specifically, the Parties wish to postpone the deadline for the submission of the pretrial memorandum. This is the Parties’ first motion that seeks to modify the pretrial memorandum deadline in this case.

In support of this joint motion, the Parties state as follows:

1. The Corrected Amended Scheduling Order provides that an “initial pretrial conference will be held on August 8, 2022 at 2:45 p.m. Corrected Am. Scheduling Order (Jan. 21, 2022), Doc. No. 174 at ¶ 3.

2. The order also states that “[t]he parties shall prepare and submit a pretrial memorandum in accordance with Local Rule 16.5(d) five business days prior to the date of the conference.” *Id.*

3. On May 25, 2022, by Electronic Order, this Court granted the Parties’ Joint Motion for Extension of Time to June 22, 2022 to File Dispositive Motions. Electronic Order (May 25, 2022), Doc. No. 182.

4. The Parties have filed motions for summary judgment, which are currently pending before this Court. *See* Pls.’ Mot. for Summ. J., Doc. No. 189; Defs.’ Mot. for Summ. J., Doc. No. 191.

5. The Parties filed their replies with respect to their motions for summary judgment on July 27, 2022. *See* Pls.’ Reply, Doc. No. 203; Defs.’ Reply, Doc. No. 204.

6. The Parties seek to postpone the submission of the pretrial memorandum required by the Corrected Amended Scheduling Order to a date to be determined at the initial pretrial conference scheduled for August 8, 2022. *See* Corrected Am. Scheduling Order (Jan. 21, 2022), Doc. No. 174 at ¶ 3.

7. Pursuant to the Standing Order Regarding Requests for Adjournments or Extensions of Time dated December 4, 2021 (the “Standing Order”), entered by Judge Talwani, this Motion contains the following: 1) the original date(s); 2) the number of previous requests for adjournment or extension; 3) whether these previous requests were granted or denied; 4) the reasons for the requested extension; and 5) whether the opposing party consents and, if not, the reasons given for refusing to consent.

8. The Parties submit a proposed revised scheduling order together with this Motion, pursuant to the Standing Order.

9. Under the Federal Rules of Civil Procedure, a scheduling order deadline may be modified for good cause shown and with the judge's consent. Fed. R. Civ. P. 16(b)(4).

10. Courts consider, in their "good cause" analysis, whether 2) "the diligence of the party seeking the amendment" and 2) whether the opposing party would be prejudiced by the modification. *O'Connell v. Hyatt Hotels of Puerto Rico*, 357 F.3d 152, 155 (1st Cir. 2004) (internal quotation marks omitted).

11. Trial courts possess "great latitude in carrying out case-management functions." *Jones v. Winnepesaukee Realty*, 990 F.2d 1, 5 (1st Cir. 1993).

12. The Parties' request meets the good cause standard for modifying the pretrial memorandum deadline. The Parties have submitted the final filings pertaining to their motions for summary judgment five days ago, and the Court has not acted upon these motions. Consequently, the nature of the case – including the facts at issue – might change as a result of those motions. The Parties' counsel have worked cooperatively in the past to meet case management deadlines as efficiently as possible and expect to continue to do so throughout the tenure of this case.

13. No Parties will be prejudiced by an extension because an extension will not impact the trial ready date.

14. The Parties also wish to re-engage in settlement discussions.

15. For the foregoing reasons, there is good cause to amend the case schedule and the Parties respectfully and jointly request that the Court amend the schedule as follows: the current deadline to submit a pretrial memorandum five days shall be postponed, with a new deadline to be selected during the initial pretrial conference on August 8, 2022.

16. Given the time exigencies, the Parties request that oral argument on the Joint Motion be set as soon as practicable.

17. Pursuant to Rule 7.1(d) of the Local Rules of the United States District Court for the District of Massachusetts, the Parties' counsel hereby requests an expedited hearing on this joint motion.

WHEREFORE, based on the foregoing, the Parties respectfully request that the Court entertain oral argument for this joint motion on an expedited basis in advance of the current deadline, as necessary, and that this joint motion be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2022, I caused to be served via electronic mail a true copy of the within document on the following counsel of record:

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